

104TH CONGRESS  
1ST SESSION

# H. R. 1168

To amend the Internal Revenue Code of 1986 to allow a credit against income tax to employers who employ members of the reserve components of the Armed Forces of the United States and to self-employed individuals who are members of such reserve components.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1995

Mr. MONTGOMERY introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against income tax to employers who employ members of the reserve components of the Armed Forces of the United States and to self-employed individuals who are members of such reserve components.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. RESERVE FORCES PARTICIPATION CREDIT.**

4       (a) IN GENERAL.—Subpart D of part IV of sub-  
5       chapter A of chapter 1 of the Internal Revenue Code of  
6       1986 (relating to business-related credits) is amended by  
7       adding at the end the following new section:

1 **“SEC. 45C. RESERVE FORCES PARTICIPATION CREDIT.**

2 “(a) GENERAL RULE.—For purposes of section 38,  
3 the reserve forces participation credit determined under  
4 this section is an amount equal to the sum of—

5 “(1) the aggregate of the employment credits  
6 with respect to qualified employees of a taxpayer,  
7 plus

8 “(2) if the taxpayer is a qualified self-employed  
9 taxpayer, the self-employment credit.

10 “(b) EMPLOYMENT CREDIT.—For purposes of this  
11 section—

12 “(1) IN GENERAL.—The employment credit  
13 with respect to a qualified employee of a taxpayer  
14 for any taxable year is an amount equal to the lesser  
15 of—

16 “(A) 50 percent of the amount of qualified  
17 compensation that would have been paid to the  
18 employee with respect to all periods during  
19 which the employee participates in qualified re-  
20 serve duty to the exclusion of normal employ-  
21 ment duties, including time spent in a travel  
22 status had the employee not been participating  
23 in qualified reserve duty, or

24 “(B) \$2,000.

25 “(2) QUALIFIED COMPENSATION.—The term  
26 ‘qualified compensation’ means compensation—

1           “(A) which is normally contingent on the  
2           employee’s presence for work and which would  
3           be deductible from the taxpayer’s gross income  
4           under section 162(a)(1) if the employee were  
5           present and receiving such compensation; and

6           “(B) which is not characterized by the tax-  
7           payer as vacation or holiday pay, or as sick  
8           leave or pay, or as any other form of pay for  
9           a nonspecific leave absence, and with respect to  
10          which the number of days the employee partici-  
11          pates in qualified reserve duty does not result  
12          in any reduction in the amount of vacation  
13          time, sick leave, or other nonspecific leave pre-  
14          viously credited to or earned by the employee.

15          “(3) QUALIFIED EMPLOYEE.—The term ‘quali-  
16          fied employee’ means a person who—

17                 “(A) has been a full-time employee of a  
18                 taxpayer for the 21-day period immediately pre-  
19                 ceding the period during which the employee  
20                 participates in qualified reserve duty, and

21                 “(B) is a member of the Ready Reserve of  
22                 a reserve component of an Armed Force of the  
23                 United States.

24          “(4) CREDIT IN ADDITION TO DEDUCTION.—

25          The employment credit provided in this section is in

1 addition to any deduction otherwise allowable with  
2 respect to compensation actually paid to a qualified  
3 employee during any period the employee partici-  
4 pates in qualified reserve duty to the exclusion of  
5 normal employment duties.

6 “(c) SELF-EMPLOYMENT CREDIT.—

7 “(1) IN GENERAL.—In the case of a qualified  
8 self-employed taxpayer, the self-employment credit  
9 for any taxable year is equal to 50 percent of the ex-  
10 cess (if any) of—

11 “(A) the taxpayer’s average daily self-em-  
12 ployment income for the taxable year over

13 “(B) the average daily military pay and al-  
14 lowances received by the taxpayer during the  
15 taxable year while participating in qualified re-  
16 serve duty to the exclusion of the taxpayer’s  
17 normal self-employment duties for the number  
18 of days the taxpayer participates in qualified re-  
19 serve duty during the taxable year, including  
20 time spent in a travel status.

21 “(2) AVERAGE DAILY SELF-EMPLOYMENT IN-  
22 COME AND AVERAGE DAILY MILITARY PAY AND AL-  
23 LOWANCES.—As used with respect to a self-em-  
24 ployed taxpayer—

1           “(A) AVERAGE DAILY SELF-EMPLOYMENT  
2 INCOME.—The term ‘average daily self-employ-  
3 ment income’ means the net earnings from self-  
4 employment (as defined in section 1402) of the  
5 taxpayer for the taxable year divided by the dif-  
6 ference between—

7                   “(i) 365, and

8                   “(ii) the number of days the taxpayer  
9 participates in qualified reserve duty dur-  
10 ing the taxable year, including time spent  
11 in a travel status.

12           “(B) AVERAGE DAILY MILITARY PAY AND  
13 ALLOWANCES.—The term ‘average daily mili-  
14 tary pay and allowances’ means—

15                   “(i) the amount paid to the taxpayer  
16 during a taxable year as military pay on  
17 account of the taxpayer’s participation in  
18 qualified reserve duty, divided by

19                   “(ii) the total number of days the tax-  
20 payer participates in qualified reserve duty,  
21 including, if applicable, time spent in travel  
22 status.

23           “(3) QUALIFIED SELF-EMPLOYED TAXPAYER.—  
24 The term ‘qualified self-employed taxpayer’ means a  
25 taxpayer who—

1           “(A) has net earnings from self-employ-  
2           ment (as defined in section 1402) for the tax-  
3           able year, and

4           “(B) is a member of the Ready Reserve of  
5           a reserve component of an Armed Force of the  
6           United States.

7           “(d) LIMITATIONS.—

8           “(1) MAXIMUM CREDIT.—The credit deter-  
9           mined under subsection (a) for the taxable year shall  
10          not exceed \$7,500.

11          “(2) DISALLOWANCE FOR FAILURE TO COMPLY  
12          WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF  
13          MEMBERS OF THE RESERVE COMPONENTS OF THE  
14          ARMED FORCES OF THE UNITED STATES.—No credit  
15          shall be allowed by reason of subsection (a) to a tax-  
16          payer for—

17               “(A) any taxable year in which the tax-  
18               payer complies with a final order, judgment, or  
19               other process issued or required by a district  
20               court of the United States under section 4323  
21               of title 38 of the United States Code with re-  
22               spect to a violation of chapter 43 of such title,  
23               and

24               “(B) the two succeeding taxable years.

1           “(3) DISALLOWANCE WITH RESPECT TO PER-  
2           SONS ORDERED TO ACTIVE DUTY FOR TRAINING.—  
3           No credit shall be allowed by reason of subsection  
4           (a) to a taxpayer with respect to any period for  
5           which the person on whose behalf the credit would  
6           otherwise be allowable is called or ordered to active  
7           duty for any of the following types of duty—

8                   “(A) active duty for training under any  
9                   provision of title 10 of the United States Code;

10                   “(B) training at encampments, maneuvers,  
11                   outdoor target practice, or other exercises under  
12                   chapter 5 of title 32, United States Code; or

13                   “(C) full-time National Guard duty, as de-  
14                   fined in section 101(d)(5) of title 10, United  
15                   State Code.

16           “(e) GENERAL DEFINITIONS.—

17                   “(1) MILITARY PAY AND ALLOWANCES.—The  
18                   term ‘military pay’ means pay as that term is de-  
19                   fined in section 101(21) of title 37, United States  
20                   Code, and the term ‘allowances’ means the allow-  
21                   ances payable to a member of the Armed Forces of  
22                   the United States under chapter 7 of that title.

23                   “(2) QUALIFIED RESERVE DUTY.—The term  
24                   ‘qualified reserve duty’ includes only active duty per-  
25                   formed in support of, as designated in the reservist’s

1 military orders, a contingency operation as defined  
2 in section 101(a)(13), of title 10, United States  
3 Code.

4 “(3) NORMAL EMPLOYMENT AND SELF-EM-  
5 PLOYMENT DUTIES.—A person shall be deemed to  
6 be participating in qualified reserve duty to the ex-  
7 clusion of normal employment or self-employment  
8 duties if the person does not engage in or undertake  
9 any substantial activity related to the person’s nor-  
10 mal employment or self-employment duties while  
11 participating in qualified reserve duty unless in an  
12 authorized leave status or other authorized absence  
13 from military duties. If a person engages in or un-  
14 dertakes any substantial activity related to the per-  
15 son’s normal employment or self-employment duties  
16 at any time while participating in a period of quali-  
17 fied reserve duty, unless during a period of author-  
18 ized leave or other authorized absence from military  
19 duties, the person shall be deemed to have engaged  
20 in or undertaken such activity for the entire period  
21 of qualified reserve duty.

22 “(f) CONTROLLED GROUPS.—All persons treated as  
23 a single employer under subsection (a) or (b) of section  
24 52 shall be treated as a single employer for purposes of  
25 this section.”



1 (b) CREDIT TO BE PART OF GENERAL BUSINESS

2 CREDIT.—Subsection (b) of section 38 of such Code (re-

3 lating to general business credit) is amended—

4 (1) by striking “plus” at the end of paragraph  
5 (10);

6 (2) by striking the period at the end of para-  
7 graph (11) and inserting “, plus”; and

8 (3) by adding at the end the following new  
9 paragraph:

10 “(12) the reserve forces participation credit de-  
11 termined under section 45C(a).”.

12 (c) CLERICAL AMENDMENT.—The table of sections  
13 for subpart D of part IV of subchapter A of chapter 1  
14 of such Code is amended by adding at the end the follow-  
15 ing new item:

“Sec. 45C. Reserve forces participation credit.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to taxable years beginning after  
18 December 31, 1995.

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